

**RULES
OF
DEPARTMENT OF REVENUE
ADMINISTRATIVE DIVISION**

**CHAPTER 1320-1-1
ADMINISTRATION**

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1320-1-1-.01 REPEALED.

Authority: T.C.A. §67-1-101 to implement §9-1-108. **Administrative History:** Original rule certified June 7, 1974. Repeal filed June 28, 2000; effective September 11, 2000.

1320-1-1-.02 CREDIT FOR DISHONORED CHECKS.

- (1) Credit will be given by the Commissioner of Revenue to municipal or county officers for dishonored checks or money orders tendered to such officers in payment of State taxes, licenses and fees, under the following conditions:
 - (a) Credit will be allowed only for the amount of the check or money order which represents the state tax, license, or fee due and owing to the State regardless of the total amount of the check or money order.
 - (b) The dishonored check must show that it was deposited by the third business day after receipt; that it was returned unpaid by the bank on which it was drawn; that it was subsequently redeposited by the third business day after its return and that it was returned unpaid for the second time. Where it is the practice of the depositor's bank to automatically redeposit a dishonored check before it is returned unpaid to the depositor, the date of such action as noted on the check by the bank will be accepted as fulfilling the time requirement for redeposit.
 - (c) The municipal or county officer must initiate civil action to recover the amount of any dishonored check or money order within thirty (30) calendar days after the second or final return of the dishonored check or money order. If, prior to the initiation of the civil action, it is deemed advisable to send a notice to the taxpayer prior to initiating civil action, such notice must be mailed not later than the fourth business day after final return of the check or money order and the notice must include a limitation period for response not to exceed fifteen (15) days. If such notice does not result in recovery, civil action must be initiated within ten (10) calendar days after expiration of the period specified in the notice.
- (2) Any claim for credit submitted to the Commissioner of Revenue by a municipal or county officer must be accompanied by:
 - (a) A copy of the tax, license, or fee document for which the dishonored check or money order was tendered.
 - (b) A copy of the 15-day notice, if any.

(Rule 1320-1-1-.02, continued)

- (c) A copy of the document initiating civil action by the municipal or county officer, along with the results of the civil action.
 - (d) A copy of the dishonored check or money order.
 - (e) The registration plate or privilege license and/or copies of receipts for state taxes.
- (3) If a registration plate or license cannot be repossessed because the taxpayer cannot be located, a statement to this effect must accompany the claim. If the taxpayer resides outside the county where the dishonored check or money order was tendered, all available information known to the county or municipal officer concerning such taxpayer should be furnished with the claim.
- (4) In all cases the municipal or county officer is expected to make every reasonable effort to effect collection of any dishonored check or money order. If unsuccessful in this, he is expected to obtain the return of the license or registration plate if same can be found in his county and take all necessary steps to prevent the operation of any unlicensed business or unregistered motor vehicle.
- (5) A claim for credit will be denied unless filed with the Department of Revenue within twelve (12) months from the date civil action was initiated.

Authority: T.C.A. §67-101 to implement Section 9-108. **Administrative History:** Original Rule certified June 7, 1974. Amendment: filed September 11, 1978, effective December 29, 1978.

1320-1-1-.03 PAYMENT IN IMMEDIATELY AVAILABLE FUNDS

- (1) The commissioner may require persons owing \$10,000 or more in connection with any return, report or other document filed with the department to make such payment in immediately available funds. Upon notification by the commissioner, a person meeting the criteria set out in paragraph (2) of this rule for a particular tax type shall be required to make all payments of such tax type(s) in funds which are immediately available to the state no later than the due date of said tax or taxes. The term immediately available funds shall mean funds which are available to the State on the date of payment. Payment in immediately available funds may be made only by the following methods:
- (a) Automated Clearing House Debit (ACH-debit),
 - (b) Automated Clearing House Credit (ACH-credit),
 - (c) Wire Transfer through the Federal Reserve System (FedWire),
 - (d) Transfer into a State of Tennessee account in a Tennessee depository from the person's account at the same depository, or
 - (e) Currency deposited in a State of Tennessee account at a Tennessee depository or delivered to the central office of the Department of Revenue in Nashville, Tennessee.

The commissioner may designate an agent to aid in the administration of the methods described in subparagraphs (a), (c) and (d) above.

- (2) The commissioner's determination of whether a person will be required to make payment in immediately available funds, as set out in paragraph (1) of this rule will be based on the average tax payment for each tax type.
- (a) A person's average tax payment will be determined by dividing the amount of tax shown to be due during the past consecutive 12 months, or such other period as the commissioner may deem

(Rule 1320-1-1-.03, continued)

- appropriate, by the number of returns, reports or documents actually filed during the same period. Provided, however, for those tax types computed on an annual basis, for which quarterly payments are either required or permitted to be made by applicable law, the average tax payment will be determined by dividing the amount of tax shown to be due for the applicable annual reporting period by the number four (4).
- (b) Persons with less than one year's reporting experience in Tennessee may be determined by the commissioner to be required to make payment in immediately available funds whenever it appears from information available to the commissioner that such person is likely to meet the criteria in paragraph (2)(a) of this rule.
 - (c) An individual determination shall be made for each separately registered location.
 - (d) Once the commissioner's determination pursuant to paragraph (2) of this rule is made all payments of the same tax type must be made in immediately available funds even if some payments fall below \$20,000.
- (3) Persons whose average tax payment for a particular tax type is \$20,000 or more will be notified by the commissioner that payment of tax will be required to be made in immediately available funds. A person so notified shall make an election as to which one of the methods set out in paragraph (1) of this rule it will use and shall provide such other information as the commissioner may require.
 - (4) Persons making consolidated payments of tax for separately registered locations shall be required to make such consolidated payment in immediately available funds if any location for which payment is being made has been determined by the commissioner to meet the criteria set out in paragraph (2) of this rule.
 - (5) Each payment under this rule shall be limited to a single tax type except when two or more tax types are permitted to be paid on a single return, as in the case of franchise and excise taxes. Whenever two or more tax types are permitted to be paid on a single return, a person determined by the commissioner to meet the criteria set out in paragraph (2) of this rule for one of the tax types shall make payment on said return in immediately available funds regardless of whether the average tax payment of the other tax type(s) is \$20,000 or more.
 - (6) If a tax payment due date falls on a Saturday, Sunday or banking holiday, the tax payment must be made so that the funds are immediately available on the first business day thereafter.
 - (7) Persons not meeting the criteria set out in paragraph (2) of this rule who desire to make payments of tax by one of the methods set out in paragraph (1) of this rule may be permitted to do so. Such persons shall make the same election, complete the same forms and be subject to the same requirements as those persons required to make payment in immediately available funds.
 - (8) The requirement to make payment in immediately available funds does not change the requirement to file returns, reports and documents associated with said payments in the manner prescribed by statute and by rules and regulations promulgated by the commissioner.
 - (9) Failure to timely or properly make payment in immediately available funds shall subject the person to penalty and interest as provided by law for delinquent or deficient tax payments. If payment is made in other than immediately available funds in the manner prescribed in paragraph (1) of this rule, in addition to any penalty which may be imposed, interest shall be added to the amount of tax due from the due date of the tax payment to the date that the funds become available to the State which shall be presumed, in the absence of evidence to the contrary, to be the second business day following receipt of payment.

(Rule 1320-1-1-.03, continued)

- (10) Any person required by the commissioner to make tax payments in immediately available funds may apply to the commissioner to be relieved of such requirement if it appears that such person no longer meets the criteria set out in paragraph (2) of this rule. Any person making an election to make tax payments by one of the methods set out in paragraph (1) of this rule may apply to the commissioner to be relieved of such requirement if such person no longer desires to make payment of tax by one of said methods. A person may not make more than one (1) such application per calendar year. Any person may not make more than one (1) such application per calendar year. Any person making such an application shall continue to make payment by the method chosen under paragraph (1) of this rule until such time as it is finally determined that the person should be permitted to make tax payments by other than one of said methods.
- (11) It is the intent of the commissioner to examine each person's compliance with the requirements of this rule. If a person making payment under this rule repeatedly fails to correctly complete a transaction under its chosen method of payment, the commissioner may, in his discretion, require that the person make future payments by another method set out in paragraph (1) of this rule.

Authority: T.C.A. §§67-1-102 and 67-1-703(b) (1989 Tenn. Pub. Acts 332). **Administrative History:** New rule filed November 13, 1989; effective January 1, 1990. Amendment filed June 28, 2000; effective September 11, 2000.

1320-1-1-.04 through 1320-1-1-.28 REPEALED.

Authority: T.C.A. §§4-509 and 67-101. **Administrative History:** (For history prior to July, 1986, see pages 2-3.002). Repealed by Public Chapter 575; effective July 1, 1986.

1320-1-1-.29 TAXPAYER IDENTIFICATION NUMBERS.

- (1) The Commissioner of Revenue may require, for purposes of tax administration, any person who is liable for any tax administered by the Department of Revenue to disclose to the Department his social security account number or his federal employer's identification number as issued by the U.S. Internal Revenue Service.
- (2) The failure to disclose, upon request, such information to the Department of Revenue will be cause for the Commissioner to deny or revoke, pursuant to law, any taxpayer's authority to do business in the State of Tennessee.

Authority: T.C.A. §67-101(2). **Administrative History:** Original rule filed March 20, 1978; effective June 14, 1978.